



Governor Michael R. Pence

Executive Director Virgil R. Madden

## **INDIANA REAL ESTATE COMMISSION ELECTRONIC MEANS PARTICIPATION POLICY**

*Posted on the public IREC webpage and copies available from main office*

The following policy (the "Policy") regarding electronic participation in the Indiana Real Estate Commission ("Commission") meetings was approved as set forth herein at the public meeting of March 6, 2013 by due consideration and 7-0 vote of the Commission.<sup>1</sup>

### **I. Recitals: Policy and Legal Considerations**

This Policy is adopted, and shall be interpreted to:

- A. Balance ease of Commission member's access and participation with orderly proceedings, including best practices for meetings including administrative hearings conducted in a meeting;
- B. Follow Ind. Code § 5-14-1.5-3.6 and any other applicable provisions of the Open Door Law and other applicable law, and be interpreted in a manner consistent with such laws;
- C. Encourage Commission members to physically attend meetings whenever possible, especially when hearings are scheduled.<sup>2</sup>
- D. Ind. Code § 5-14-1.5-6 applies to electronic participation in Commission meetings and establishes various requirements, including that Commission members may participate electronically only if a means of communication is used that permits the Commission member, all other Commission members, and members of the public physically present at the place where the meeting is conducted to simultaneously communicate with each other during the meeting; at least four (4) Commission members must be physically present at the place where the meeting is conducted; all votes in electronic meetings shall be roll call votes; each Commission member must be physically present for at least one meeting of the Commission annually; absent adopted policy to the contrary, a Commission member who participates by electronic communication is considered present, may be counted in establishing a quorum, and vote at the meeting; and the Commission must comply with the Open Door Law and adopt a policy under Ind. Code § 5-14-1.5-6(g).

### **II. Policy Provisions**

Based on the foregoing Recitals, the following Policy is hereby adopted by the Commission under Ind. Code § 5-14-1.5-6(g):

1. At least four (4) Commission members must be physically present at the designated meeting site. In case of difficulty of scheduling or multiple Commission members requesting electronic participation, the

<sup>1</sup> Statutory Background. P.L. 134-2012 (HEA No. 1003-2012) affected the Open Door Law (ODL) and the Access to Public Records Act (APRA). A notable change would allow a State agency such as the Indiana Real Estate Commission to allow its members to attend meetings via electronic means on or after January 1, 2013. In order to permit participation in such a fashion, the Commission has adopted this Policy. The Commission is authorized and required to develop such a policy through Ind. Code § 5-14-1.5-3.6.

<sup>2</sup> Physical attendance is also important to maintain the minimum four members at the designated meeting site.

Chairperson of the Commission in conjunction with the Commission's director, shall determine who may attend electronically.

2. Consistent with Ind. Code § 5-14-1.5-3.6(b), a Commission member participating via electronic means can do so by telephone, computer, video conferencing, or any other method of communication that allows for simultaneous communication and is capable of being recorded by members of the public present at the designated meeting site.
3. A Commission member appropriately participating via electronic means is considered present, is counted for quorum purposes, and may vote at the meeting on all matters. A Commission member participating via electronic means may cast the deciding vote on any matter properly before the Commission and may fully participate in the meeting.
4. A Commission member participating in a meeting via electronic means is not required to do so in a setting that is open to the public.
5. A Commission member attending via electronic means shall notify the Chairperson and Commission director reasonably in advance of the meeting. A Commission member does not require prior Commission authorization to participate electronically under this policy unless the Chairperson objects or must require physical participation in order to have two Commission members physically present at the place where the meeting is conducted.
6. The Chairperson is delegated to supervise and coordinate electronic participation with the assistance of the Commission director and in consultation, as necessary, with the Deputy Attorney General assigned to the Commission.
7. Commission members are encouraged, but not required, to attend in person all meetings possible, especially where administrative hearings are scheduled. This Policy endeavors to balance convenience and greater membership participation with operational efficiency and quality.

  
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Paul Boyter, Commission Chair  
Indiana Real Estate Commission